

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 660 - HB 1600

February 26, 2021

SUMMARY OF BILL: Authorizes the use of a transfer-on-death (TOD) deed in order to transfer real property and automobiles upon the death of the owner to the owner's designated beneficiary. Details limitations of property authorized to be transferred. Exempts any realty transfer pursuant to a TOD deed would be exempt from recordation tax. Authorizes a beneficiary designation to be changed at any time without the consent of the beneficiary by filing an application for a subsequent TOD certificate of title and payment of a \$5.50 fee.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue –

\$185,100/FY21-22 and Subsequent Years/Various State Funds

Decrease Local Revenue - \$9,700/FY21-22 and Subsequent Years

Assumptions:

- Currently, an interest in real property is automatically passed to the decedent's heirs or, if there is a will, to the decedent's will beneficiaries. This legislation allows for a person to bypass the probate process for a quick transfer of property.
- Based on information provided by the Division of TennCare, this legislation would have no significant impact on the Division, because even if the property is transferred at death, it allows creditors like TennCare to bring the property into the estate to have it sold to satisfy any TennCare estate recovery claim.
- Pursuant to Tenn. Code Ann. 67-4-409(a), on all transfers of realty, whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real estate, there shall be paid for the privilege of having the same recorded a tax, for state purposes only, of \$0.37 per \$100.
- It is currently unknown the exact amount of realty transfer tax revenue that would be impacted by this legislation.
- Between FY17-18 and FY19-20, the Department of Revenue collected a yearly average of \$185,087,263 in realty transfer tax revenue.
- It can be reasonably assumed that approximately 0.1 percent of these collections would be impacted by this legislation, resulting in a decrease in state revenue to various state funds of \$185,087 (\$185,087,263 x 0.1%) in FY21-22 and subsequent years.

- For the purposes of this fiscal note, it is assumed that counties retain an average of five percent of privilege and excise taxes collected. There will be a mandatory decrease in local government revenue of \$9,741 ($\$185,087 / 95\% \times 5\%$) in FY21-22 and subsequent years.
- It is estimated there will not be a significant enough number of beneficiary designation changes each year to substantially increase local government revenue.
- There will not be a significant impact to state or local government expenditures as a result of this legislation.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Interim Executive Director

/jg